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ARIZONA ATTORNEY GENERAL

April 8, 1985

The Honorable James J. Sossaman  
Arizona House of Representatives  
State Capitol - House Wing  
Phoenix, Arizona 85007

RE: I85-049 (R85-053)

Dear Representative Sossaman:

You have asked whether, subsequent to receiving voter approval for sale of school district property, a school district governing board may, instead, lease the property for use as a civic center. In particular, the Chandler Unified School District No. 80 of Maricopa County, Arizona, submitted the following question for voter approval at a special election in November of 1983:

Shall Chandler Unified School District No. 80 of Maricopa County, Arizona, be authorized to sell the District property and improvements known as the Chandler Heights School . . . and to utilize the proceeds of the sale for District general operating and maintenance purposes?

At the November 8, 1983, special election, the voters approved the question as submitted to them. Subsequently, the governing board of the district has determined that it is in the interest of the district to lease the property for use as a civic center, rather than sell the property. Thus, you have asked whether, notwithstanding the aforementioned authorization by the electors, the district governing board may opt to lease the property for use as a civic center.

A school district governing board is empowered to purchase a school site when authorized by vote of the district. A.R.S. § 15-341. A.R.S. § 15-342.11 further provides that a school district governing board may sell school sites if authorized by a vote of the school district electors in an election called by the governing board as provided in § 15-491. The election may arise from the decision of the governing board or by a petition of the school electors. A.R.S. § 15-491 provides, in relevant part, as follows:

A. The governing board of a school district may, and upon petition of fifteen per cent of the school electors as shown by the poll list at the last preceding annual school election shall, call an election for the following purposes:

\* \* \*

2. To purchase or sell school sites or buildings or sell school sites pursuant to § 15-342 or to build school buildings . . . .

\* \* \*

4. To long-term lease, as lessor or as lessee, school buildings or grounds.

(Emphasis added.) An authorization to sell school property must specify the purposes for which the proceeds of the school site shall be applied and the proceeds from the sale may only be applied to those purposes presented to the voters. A.R.S. § 15-341.11.

By the required language of the ballot, the electors of the district thus only authorize the governing board to sell a school site. Although the governing board is required to hold an election when fifteen percent of the school electors petition for such an election, there is no similar provision that requires the district to actually sell the property upon receiving the requisite voter approval.

We note, however, that A.R.S. § 15-342.10 requires voter approval for a lease in excess of five years. Thus, if the district governing board determines to lease the property in excess of five years, it must obtain voter approval pursuant to the provisions of A.R.S. § 15-342.10. This conclusion applies,

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notwithstanding the fact that the district intends to lease the property for a "civic purpose in the interests of the community." A.R.S. § 15-1105 which gives the school board authority to lease the property for a "civic purpose in the interests of the community" must be harmonized with A.R.S. § 15-342.10 which requires voter approval for any lease in excess of five years. Thus, if the district plans to lease the property in excess of five years, it must obtain voter approval, regardless of the use to which the property will be put.

Sincerely,



BOB CORBIN  
Attorney General

BC:SMS:gm